

## REMARKS

In accordance with the foregoing, claims 1-4, 7, 10-15, 17, 19, 20, and 22 have been amended. Claims 1-25 are pending, with claims 1 and 13 being independent. No new matter is presented in this Amendment.

### Claim Amendments

Independent claims 1 and 13 have been amended solely to even more clearly recite statutory subject matter under 35 USC 101 and to improve their form, and dependent claims 2-4, 7, 10-12, 14, 15, 17, 19, 20, and 22 have been amended solely to correct errors and improve their form. Accordingly, it is submitted that the Examiner cannot make the next Office Action final if it includes any rejection of any of claims 1-25 over the prior art.

### Claim Rejections Under 35 USC 101

Claims 1-25 have been rejected under 35 USC 101 as being directed to non-statutory subject matter. This rejection is respectfully traversed.

The Examiner states as follows, apparently relying on MPEP 2106.01:

Claim 1-25 [*sic*] recites an information storage medium having ENAV file and other information on [*sic*]. It is a nonfunctional descriptive material and it is non-statutory. When nonfunctional descriptive material is recorded on some computer-readable medium, in a computer or on an electromagnetic carrier signal, it is not statutory since no requisite functionality is present to satisfy the practical application requirement. Merely claiming nonfunctional descriptive material, i.e., abstract ideas, stored in a computer readable medium, in a computer, on [*sic*] an electromagnetic carrier signal does not make it statutory. See Diehr, 450 U.S. at 185-86, 209 USPQ at 8.

However, it is submitted that independent claims 1 and 13 as they were considered in the Office Action of January 22, 2009, clearly recited functional descriptive material because claim 1 recited "ENAV buffer configuration information for use by the apparatus in allocating at least a portion of the ENAV buffer in which the ENAV file is to be loaded to be an updateable markup area," and claim 13 recited "allocation information used by the apparatus to allocate a portion of

the buffer to be reserved for an interactive type of the interactive file prior to the interactive file being loaded." However, solely in an effort to eliminate this issue and advance the prosecution of the application, claims 1 and 13 have been amended to even more clearly recite functional descriptive material.

Thus, claim 1 now recites the following functional descriptive material:

ENAV buffer configuration information that the recording and/or reproducing apparatus uses to allocate at least a portion of the ENAV buffer into which the ENAV file is to be loaded to be an updateable markup area when the information storage medium is used in the recording and/or reproducing apparatus,

and claim 13 now recites the following functional descriptive material:

allocation information that the recording and/or reproducing apparatus uses to allocate a portion of the buffer to be reserved for an interactive type of the interactive file prior to the interactive file being loaded when the information storage medium is used in the recording and/or reproducing apparatus.

Since claims 1 and 13 now even more clearly recite functional descriptive material on a physical information storage medium that is readable by the recording and/or reproducing apparatus, it is submitted that claims 1 and 13 and claims 2-12 and 14-25 depending therefrom are now clearly statutory under 35 USC 101.

For at least the foregoing reasons, it is respectfully requested that the rejection of claims 1-25 under 35 USC 101 as being directed to non-statutory matter be withdrawn.

### Conclusion

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

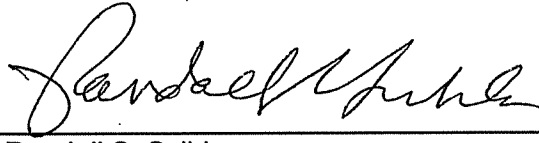
Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with the filing of this paper, please charge the same to our Deposit Account No. 503333.

Respectfully submitted,

STEIN MCEWEN, LLP

Date: 04/21/09

By:   
Randall S. Svihla  
Registration No. 56,273

1400 Eye St., NW  
Suite 300  
Washington, D.C. 20005  
Telephone: (202) 216-9505  
Facsimile: (202) 216-9510